

REMARKS

Claims 1-12 and 15-36 are pending in this application. Reconsideration and withdrawal of the rejections set forth in the Official Action are respectfully requested in view of this amendment and the following reasons: Claims 15, 16, 18, 19, 28, 30, and 32 have been amended for clarification and correction of informalities.

It is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132. Accordingly, Applicant requests reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

Rejections Under 35 U.S.C. §112

Claims 15, 16, 28-30, and 32 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, the Examiner indicates the following:

- (1) In claim 15, the recitation of a "coat" lacks any recitation of a structural relationship to the other recited elements and the phrase "sufficient to disguise" is considered indefinite. Sufficiency is a relative term with no definite metes and bounds.
- (2) Claims 16 and 28-30 fail to further limit the structure of a previously claimed element and are indefinite in that one cannot determine if a "key ring" and "elongated object" are being claimed in combination. Currently these are

referring to only functionality.

- (3) In claim 32, the phrase “configured sufficient to be used” is indefinite. One cannot determine what structure is required to accomplish this function.

By the claim amendments presented above, Applicant submits that the rejections under 35 U.S.C. §112, second paragraph, have been obviated.

Accordingly, it is submitted that claims 15, 16, 28-30, and 32 are clear and definite within the meaning of 35 U.S.C. §112, second paragraph. Thus, Applicant respectfully requests withdrawal of the 35 U.S.C. §112, second paragraph, rejection of claims 15, 16, 28-30, and 32.

Rejections Under 35 U.S.C. §102

1. Claims 1 and 3-12 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Design Patent D478,957 issued to Rae, *et al.* (“Rae”).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.1987).

Applicant respectfully submits that Rae fails to disclose each and every feature recited in claim 1. Specifically, claim 1 recites:

A handheld defense weapon, comprising:

a first hand grip portion extending along a *first direction* and comprising a first

spike fitted at a first end of the first hand grip portion, and a second spike provided at a second end of the first hand grip portion, the first and second spikes *facing in the same direction*; and

a third spike at the first end of the first hand grip portion, *extending in an opposite direction from the first spike*, wherein the first and third spikes form a second hand grip portion extending only along a *second direction generally perpendicular to the first direction*. (emphasis added)

First, Applicant respectfully points out that the Examiner fails to establish a *prima facie* case of anticipation. The Examiner presents a marked drawing of Rae and declares a conclusory statement of anticipation, but does not indicate which parts of the disclosure respectively correspond to the “first handgrip portion,” “second handgrip portion,” “first spike,” “second spike,” and “third spike,” as recited in claim 1. Thus, the Examiner does not demonstrate that each and every feature recited in claim 1 is disclosed by the single prior art of Rae, and thus fails to establish a *prima facie* case of anticipation. The examiner has the initial burden of establishing a *prima facie* case of anticipation by pointing out where all of the claim limitations appear in a single reference. See *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655 (Fed. Cir. 1990). *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986). Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. §102 rejection of claims 1 and 3-12.

If one accepts the broadest interpretation of Rae, the corresponding elements of Rae can be assumed as shown in the reference figure “Fig. 1,” attached hereto as an Appendix, on sheet 4 of 4. As marked in Fig. 1 on sheet 4, the analogous elements of the “third spike” and “first spike” recited in claim 1 must be the third and first extensions shown

in Fig. 1 of Rae, respectively, because the “third spike” is “extending in an opposite direction from the first spike” and no other extension meets this requirement. However, as clearly shown in Fig. 1 of Rae, the direction along which the first and third extensions extend, if it can be considered extending in a *same* direction, is *significantly oblique* to the direction along which the grip portion extends, which is interpreted by the Examiner as teaching the “first direction” recited in claim 1. Thus, Rae fails to teach at least that “the first and third spikes form a second hand grip portion extending only along a second direction *generally perpendicular to the first direction*,” as recited in claim 1.

Furthermore, since the first extension shown in Fig. 1 of attached sheet 4 is significantly oblique to the grip portion, it is not facing the second extension, which may correspond to the “second spike” of claim 1, extending roughly perpendicular to the grip portion, in the *same* direction. Thus, Rae also fails to teach at least the “first and second spikes facing in the same direction,” as recited in claim 1.

According to the subject matter of claim 1, the *first* and *third* spikes extend only along a second direction generally perpendicular to the first direction. This stands in complete contrast to the ornamental *hilt* disclosed by Rae, in which the first and third extensions extend more along the first direction, thus fail to teach such features of claim 1.

The ornamental hilt disclosed by Rae is first and foremost a *hilt* and is adapted to be fitted with a blade. Thus, the first end of the hilt can not be considered as a “second hand grip” recited in claim 1. Furthermore, even if one would attempt to grip the ornamented hilt of Rae by its first end, such gripping would be impossible due to the protrusions extending

along the first direction. Accordingly, Applicant notes that claim 1 is allowable over Rae.

Claim 3-12 depend from claim 1, and thus are allowable for at least this reason. Accordingly, Applicant submits that Rae does not teach each and every recited element of present claims 1 and 3-12 as required for anticipation under 35 U.S.C. §102. Thus, Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of claims 1 and 3-12.

2. Claims 1, 2, 5-7, 11, 12, 16, 17, and 32 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,546,832 issued to Townsend ("Townsend").

Applicant respectfully submits that Townsend fails to disclose each and every feature recited in claim 1. Specifically, claim 1 recites:

A handheld defense weapon, comprising:

a first hand grip portion extending along a first direction and comprising a *first spike fitted at a **first end of the first hand grip** portion*, and a second spike provided at a second end of the first hand grip portion, the first and second spikes facing in the same direction; and

a *third spike at the **first end of the first hand grip** portion*, extending in an opposite direction from the first spike, wherein *the first and third spikes form a second **hand grip** portion* extending only along a second direction generally perpendicular to the first direction. (emphasis added)

The Examiner asserts that in Townsend the portion on which the grooves 48 formed teaches the "hand grip portion" recited in claim 1 (Official Action, page 3, line 8). However, if the groove portion 48 is regarded as a "first hand grip portion" of claim 1, then the opposing ends 14, 16, which the Examiner believes respectively teach the first and third

spikes of claim 1, are not at any end of the groove portion 48 because in claim 1 the “first spike” and “third spike” are “at the first end of the first hand grip portion” and in Townsend the opposing ends 14, 16 are mounted on the neck of the handle 24, which is a different element from the groove portion 48. A user would not grip the neck of the handle 24 in a normal use of the Townsend hammer. Thus, it is clear that Townsend fails to teach at least the “first spike fitted at a first end of the first hand grip portion” or the “third spike at the first end of the first hand grip portion,” as recited in claim 1.

Even if a lower neck part of the handle 24 can be gripped in certain occasion, beyond a normal use, the whole neck of handle 24 cannot be considered as a “hand grip part” because to become a hand grip portion, the portion must be gripped by a user *in its normal usage*. Any possibility that a user can grip even the head 12 or an upper neck part of the handle 12 does not result in an unreasonably broad interpretation in that they are regarded as a “hand grip portion.” In this regard, it is clear that the neck of the handle 12 does not teach the “first hand grip portion,” as recited in claim 1.

Furthermore, according to the claimed subject matter, the first and third spikes collectively form a “second hand grip portion.” For the reasons noted above, the opposing ends 14, 16 cannot be construed as a hand grip portion. Thus, Townsend fails to teach at least that “the first and third spikes form a second hand grip portion,” as recited in claim 1.

Moreover, Townsend describes a hammer 10 with a hammer head 12 having a flat striking surface 18 adapted to hit a nail. As such, the hammer head 12 cannot be considered as teaching the “first spike” recited in claim 1.

Moreover, the protrusion 46 at the second end of the groove portion 48 is adapted for preventing slippage of the user's hand from the portion (Townsend, Col. 5, lines 35-45).

Thus, Applicant notes that claim 1 is allowable over Townsend. Claims 2, 5-7, 11, 12, 16, 17, and 32 depend from claim 1, and thus are allowable for at least this reason. Accordingly, Applicant submits that Townsend does not teach each and every recited element of present claims 1, 2, 5-7, 11, 12, 16, 17, and 32 as required for anticipation under 35 U.S.C. §102. Thus, Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of claims 1, 2, 5-7, 11, 12, 16, 17, and 32.

Rejections Under 35 U.S.C. §103

1. Claims 2 and 15-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rae in view of matters considered old and well known to striking weapons as set forth in the previous office action.

Claims 2 and 15-33 depend from claim 1. The alleged well known prior art is used by the Examiner in an attempt to cure the deficiencies of the primary reference, Rae, but does not teach all of the features recited in claim 1. Thus, even if one of ordinary skill in the art happens to combine the teachings of the two, this combination still does not teach each and every feature recited in claim 1. Accordingly, claims 2 and 15-33 are allowable because they depend from claim 1.

Claim 34 is directed to a kit, reciting similar features as claim 1. Thus, claim 33 is allowable over Rae and the alleged well known prior art, whether taken alone or in

combination. Claims 35 and 36 depend from claim 34, and thus are allowable for at least this reason.

2. Claims 3, 15, 17-31, and 33-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Townsend in view of matters considered old and well known to striking weapons.

Claims 3, 15, 17-31, and 33 depend from claim 1. The alleged well known prior art is used by the Examiner in an attempt to cure the deficiencies of the primary reference, Townsend, but does not teach all of the features recited in claim 1. Thus, even if one of ordinary skill in the art happens to combine the teachings of the two, this combination still does not teach each and every feature recited in claim 1. Accordingly, claims 3, 15, 17-31, and 33 are allowable because they depend from claim 1.

Claim 34 is directed to a kit, reciting similar features as claim 1. Thus, claim 33 is allowable over Townsend and the alleged well known prior art, whether taken alone or in combination. Claims 35 and 36 depend from claim 34, and thus are allowable for at least this reason.

Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection of claims 2, 3, and 15-36. Since none of the other prior art of record, whether taken alone or in any combination, discloses or suggests all the features of the claimed subject matter, Applicant respectfully submits that independent claims 1 and 34, and all the claims that depend therefrom, are allowable.

CONCLUSION

Applicant believes that a full and complete response has been made to the pending Official Action and respectfully submits that all of the stated grounds for rejection have been overcome or rendered moot. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative at the number below to expedite prosecution.

If an extension of time is necessary to prevent abandonment of this application and is not filed herewith, then such extension of time is hereby petitioned for under 37 C.F.R. §1.136(a). Any fees required for further extensions of time and any fees for the net addition of claims are hereby authorized to be charged to our Deposit Account No. 14-0112. Prompt and favorable consideration of this Reply is respectfully requested.

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